

Petition for Submission of Proposed Ordinance by Initiative Petition

Pursuant to the Charter of the City of Cleveland, Chapter 7

To be signed by five thousand (5,000) qualified electors of the City of Cleveland.

To the Council, the legislative authority of the City of Cleveland, Ohio through its Clerk:

WHEREAS, lead is a heavy-metal toxin that can cause irreversible effects on human health, particularly in young children who ingest the toxin while their brains and bodies are still developing; and

WHEREAS, homes and buildings constructed prior to 1978 are at risk of having lead hazards in the environment, particularly from paint and dust; and

WHEREAS, the majority of the housing stock in the City was built prior to 1978; and

WHEREAS, parents or immediate family members are incentivized through familial bonds to make a home lead safe for children, marking arms-length rental transactions particularly high risk; and

WHEREAS, properties with ten or more units can be reasonably determined to be lead safe through representative lead risk assessment sampling paired with visual assessments of each unit; and

WHEREAS, the City believes that to bring a lead safe requirement in line with penalties for other housing code violations, a fine structure must be included alongside incentives to property owners to make their homes lead safe; and

WHEREAS, the City believes fifth and subsequent violations of the lead safe standard should be penalized at a higher rate than initial violations because landlords with five or more lead safe violations are placing a greater number of children at risk; and

WHEREAS the City believes that in order to properly monitor the implementation of this legislation, a Lead Advisory Board must be formed of individuals who have a known interest in public health, reducing lead poisoning and/or improving Cleveland's housing stock; and

WHEREAS, lead hazards are a nuisance pursuant to Section 240.02 of the Codified Ordinances of the City; and

WHEREAS, the uncontrolled lead hazards in the City's rental housing stock and day care facilities injure the City's children; and

WHEREAS, this ordinance constitutes is required for the immediate preservation of the public peace, property, health, safety, or welfare in that the City must take

proactive measures to make residential rental properties and day care facilities lead safe to prevent children becoming poisoned; now, therefore,

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF CLEVELAND:

That Sections 365.01 through 365.07, Section 367.99, Sections 240.01 through 240.09, Section 240.99, and Section 227.03 of the Codified Ordinances of the City of Cleveland, 1976, as amended by various ordinances, be amended and changed to read as hereinafter set forth.

Section 365.01

Certificate of Rental Registration Required

(a) For purposes of this chapter, a rental unit is defined as any part of a building being used, designed or intended to be used as an individual's private residence. A rental unit includes a unit occupied by one (1) or more persons regardless of whether the occupant pays rent or provides anything else of value to the titled owner in consideration for occupying the structure. A unit is not considered a rental unit if the titled owner is one (1) of the occupants.

(b) For the purposes of this chapter, immediate family is defined as an individual's spouse, child, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or the spouse or guardian of any of the individuals described in this definition.

(c) For the purposes of this chapter, a multi-unit rental building is a building that contains more than ten (10) rental units.

(d) No owner of rental units shall fail to register with the Department of Building and Housing all rental units that the owner owns. Failure to register each rental unit is a separate violation. Failure to register each rental unit is a violation that materially affects health and safety for the purposes of RC 5321.04(A)(1).

Section 365.02

Issuance of Certificate of Rental Registration; Revocation

(a) Application for a certificate of rental registration required by the provisions of this Housing Code shall be made annually, on or before March 1st on forms supplied by the Director of Building and Housing. Information to be supplied on an application shall include, but is not limited to, the following:

(1) The name, address, and telephone number of the owner or owners of the premises. In the case of a partnership, the names, addresses, and telephone numbers of all general partners. In the cases of a corporation, the names, addresses, and telephone numbers of the current statutory agent and all corporate officers of the corporation. The address for corporations and partnerships shall be the principal place of business and the address for persons shall be the home address;

(2) The name, address, and telephone number of the managing agent of the premises, if any. In the case of a partnership, the names, addresses, and telephone numbers of the current statutory agent and all corporate officers of the corporation. The address for corporations and partnerships shall be the principal place of business and the address for persons shall be the home address.

(3) A certification that,

A. One or more of the premises' titled owners are the immediate family of one or more of the premises' current occupants as of the date of application;

B. The premises has been determined to be lead safe pursuant to the standard outlined in Chapter 240.08 in which case the passing lead risk assessment or clearance examination dated within two (2) years of the date of application shall be attached to the application;

C. The premises has not been determined to be lead safe;

D. The premises is part of a multi-unit building, and at least ten (10) percent of the units, rounded up to the nearest whole number, as chosen by the certified lead risk assessor, have been determined to be lead safe pursuant to Chapter 240.08(b) without the finding of any lead hazards, in which case the passing lead risk assessment(s) dated within two (2) years of the date of application for at ten (10) percent of the units, rounded up to the nearest whole number shall be attached to the application along with a passing visual assessment of the premises within the meaning of OAC 3701-32-01(WWW) dated within two (2) years of the date of application and conducted by a certified lead risk assessor, lead inspector or clearance technician. If the lead risk assessment of a rental unit in a multi-unit building identifies lead hazards, no rental unit in the building may certify under Section 365.02(a)(3)(D);

E. The premises has been determined to be lead free, in which case a report dated within twenty (20) years from the date of application shall be attached to the application certifying that the property has been found to be lead free by a licensed lead inspector certified under the Federal certification program or under a federally accredited State or tribal certification program; or

F. The premises was built on or after January 1, 1978, in which case documentation from Cuyahoga County showing the structure's age shall be attached to the application. For the purposes of this section, "built" means that the construction permit was obtained, or if no permit was obtained, construction started on or after January 1, 1978.

(b) If the owner of a rental unit resides or is located outside of Cuyahoga County, the owner shall designate in his or her application the name, current address, and telephone number of an agent who is a natural person and who resides within Cuyahoga County, and who is authorized by the owner to receive service of a Notice of Violation on the owner's behalf. An agent designated under this section shall be of sound mind and at least eighteen (18) years of age. It is the owner's obligation to notify the Director of Building and Housing, in writing, of any change in the name, address, and/or telephone number of any agent designated.

(c) Upon registration, the Director of Building and Housing shall issue a certificate of rental registration containing the following:

- (1) The street address or other identifying characteristics of the building or other structure;
- (2) The name, address, and telephone number of the owner or owners of the premises. In the case of a partnership, the names of all general partners;
- (3) If the record owner is a corporation, the names, addresses and telephone numbers of the current statutory agent and all corporate officers of said that corporation;
- (4) The name, address and telephone number of the managing agent of the premises, if any;
- (5) The name, address (including the dwelling unit, apartment or room number), and telephone number of the superintendent, custodian, or other individual employed by the owner or managing agent to provide regular maintenance services, if any;
- (6) The name, address, and telephone number of an individual representative of the owner or managing agent who may be reached or contacted at any time in the event of an emergency affecting the premises of any rental unit in that structure, including such emergencies as the failure of a utility system or service, and who has the authority to make emergency decisions concerning the building including its repairs or expenditures;
- (7) The district, ward, and census tract in which the structure is located;
- (8) The use and occupancy authorized.
- (9) The status of the building as
 - A. exempt from lead safe status under 365.02(a)(3)(A);
 - B. lead safe under 365.02(a)(3)(B);
 - C. not lead safe under 365.02(a)(3)(C);

D. part of a multi-unit building for which a representative sample of units within the building has been determined to be lead safe under 365.02(a)(3)(D);

E. lead free under 365.02(a)(3)(E); or

F. exempt from lead safe status due to the structure's age under 365.02(a)(3)(F).

(d) Copies of all applications and certificates of rental registration shall be kept on file by the Director of Building and Housing as a public record, except those portions that are prohibited from being released by state or federal law.

(e) The Director of Building and Housing has the power to revoke a certificate of rental registration if the applicant makes any false statement in connection with such registration, or if the structure that was covered by it is no longer in compliance with the requirements of this Code, or if the owner, agent, or person in charge of a structure refuses to comply with any provision of this Code required for the use, maintenance and/or occupancy of a structure. To maintain the certificate, the owner shall continue to meet the disclosure requirements of section 240.06. If the Director revokes a certificate of rental registration, the owner may appeal the Director's action to the Board of Zoning Appeals, established pursuant to Charter Section 76-6. Notice of such appeal shall be in writing and shall be filed with the Board within ten (10) days from the date of the Director's action. The Board may sustain, disapprove or modify the Director's action, and the Board's decision shall be final.

(f) An owner of a structure shall give prompt notification of a change in the name, address and/or telephone number of a corporation, partnership or person listed on a certificate of rental registration under division (c)(2) through (c)(6) of this section to the Director of Building and Housing within seven (7) days after the change occurs. An owner of a premises shall give prompt notification of a change in the lead safety status of the rental registration under division (c)(9) within seven (7) days after the change occurs. If the owner fails to give written notification as required in this section, then the Director may revoke the certificates of rental registration until such time that the owner has provided in writing the changed name, address, telephone number, and/or lead safety status.

(g) *Conflict of Interest.* The lead risk assessor, lead risk investigator or clearance technician certifying that the premises is lead safe may be provided by the Department of Building and Housing as part of the rental inspection outlined in Section 365.04, may be provided by another state or federal governmental entity, or may be hired directly by the owner or manager of the premises. However, a rental registration certificate is not valid unless the lead risk assessor, lead risk investigator or clearance technician certifying that the premises is lead safe meets the following criteria:

(1) The assessor or technician is not the owner or manager or an immediate family member, agent or employee of the owner or manager;

(2) The assessor or technician is not part of a company or associated with a company that is directly or beneficially owned, controlled or managed by the owner or manager, or by an immediate family member, agent or employee of the owner or manager;

(3) The assessor or technician is not a person hired by or under contract with the owner to manage or maintain the owner's real property as directed by the owner;

(4) The assessor or technician is not a person who has been authorized by the owner to manage or maintain the owner's real property on the owner's behalf;

(5) The assessor or technician is not a person who has a financial interest in the laboratory results of the sampling or testing or in the determination of whether the premises meets the applicable standards.

In addition to revocation of the certificate of rental registration, whoever violates division (f) or (g) of this section shall be fined not more than two hundred dollars (\$200.00). Each three (3) month period during which the violation continues is a separate offense.

Section 365.03

Deadlines

After March 1, 2021, no owner of rental units shall fail to certify each rental unit as either exempt from lead safe status under 365.02(a)(3)(A), lead safe under 365.02(a)(3)(B), part of a multi-unit building for which a representative sample of units within the building has been determined to be lead safe under 365.02(a)(3)(D), lead free under 365.02(a)(3)(E), or exempt from lead safe status under 365.02(a)(3)(F). Failure to certify each rental unit as either exempt from lead safe status under 365.02(a)(3)(A), lead safe under 365.02(a)(3)(B), part of a multi-unit building for which a representative sample of units within the building have been determined to be lead safe under 365.02(a)(3)(D), lead free under 365.02(a)(3)(E), or exempt from lead safe status under 365.02(a)(3)(F) is a separate violation. A violation of this section materially affects health and safety for the purposes of RC 5321.04(A)(1).

Section 365.04

Inspections; Right of Entry

(a) All rental units shall be subject to inspection for the purpose of determining compliance with the provisions of this Code and all other applicable laws, ordinances, rules and regulations. Inspections shall be conducted in accordance with the rental unit inspection schedule established by the Director of Building and Housing.

(b) When the Department of Building and Housing conducts either a lead risk assessment or a lead clearance examination under this section, the Department may assess fees on the unit's owner of up to two times the current market rate for the inspection procedure conducted, as set on a quarterly basis by the Lead Advisory Board under Section 240.10(d)(3).

(c) The Director of Building and Housing and his or her duly authorized agents or inspectors may enter at reasonable times any rental unit registered under this Chapter in accordance with the right of entry defined in Chapter 367 of this Code.

Section 365.05

Fees

(a) An application for a certificate of rental registration shall be accompanied by a nonrefundable fee calculated under the following schedule:

For Each Unit: Seventy dollar (\$70.00) Rental Registration Fee.

(b) Rental unit exemptions:

(1) No fee shall be charged for a unit occupied by the owner.

(2) No fee shall be charged for a unit for which the owner does not receive rent or anything else of value.

(3) No fee shall be charged for a unit certified as lead safe or lead free under 365.02(a)(3)(B), 365.02(a)(3)(D) or 365.02(a)(3)(E) so long as the certified lead risk assessor, lead inspector or clearance technician certifying that the home is lead safe or lead free was not provided by the Department of Building and Housing as part of a rental inspection.

(4) The Director of Building and Housing shall create rules and regulations establishing guidelines for fee exemptions.

(c) No fees shall be collected from any one (1) owner for all properties owned by that owner within the City in excess of thirty thousand dollars (\$30,000.00) per calendar year.

(d) A certificate may be renewed prior to expiration on application and payment of the fee described above. A certificate that has expired may be renewed on payment of an additional fee of one hundred dollars (\$100.00).

Section 365.06

Rental Registry

The Department of Building and Housing will set up a rental registry and will coordinate efforts and share the information in the registry with the City Department of Public Health. Certificates of rental registration will also be accessible to the public. Certificates of rental registration must be available to residents through a publicly accessible website. The digital version of the rental registry must be searchable by address and zip code.

Section 365.07

Reserved

Section 367.99

Penalty

(a) Whoever violates any provision of this Housing Code for which no other penalty is provided shall be guilty of a misdemeanor of the first degree. Each day of a continuing violation shall be deemed a separate offense.

Whoever causes or permits the continuation of any violation of this Code or any rule or regulation promulgated hereunder or fails to comply with this Housing Code or with any written notice or written order issued hereunder, subsequent to conviction therefore shall be liable for further prosecution, conviction and punishment upon the same order or notice without the necessity of issuing a new order or notice, until full compliance has been had on such order or notice upon which the original conviction was had.

(b) Whoever violates Section 367.11 shall be guilty of a misdemeanor of the third degree.

(c) Whoever violates Section 367.12 or 367.13 shall be guilty of a misdemeanor of the first degree.

(d) Whoever violates Section 371.01 shall be guilty of a misdemeanor of the first degree. Each day of a continuing violation shall be deemed a separate offense.

(e) Whoever violates Sections 365.01, 369.13, 369.14, 369.15, 369.16, 369.17, 369.18, 369.19, 371.05, 371.07, 371.10 or 371.13 or Section 369.08 as a first offense shall be guilty of a minor misdemeanor. In addition to any other method of enforcement provided for in this chapter, the above listed minor misdemeanors may be enforced by the issuance of a citation in compliance with Rule 4.1 of the Ohio Rules of Criminal Procedure.

Whoever violates Sections 392.02, 392.021, 392.03, 392.04, or 392.05 is subject to the penalty established in Section 392.99 of these Codified Ordinances. In addition to any other means of enforcement provided for in these Codified Ordinances by statute, Sections 392.02, 392.03, 392.04, 392.05 or 392.06 may be enforced by the issuance of a citation in compliance with Rule 4.1 of the Rules of Criminal Procedure, provided that the offense is a minor misdemeanor.

(f) Whoever violates Section 369.08 as a second offense of that section shall be guilty of a misdemeanor of the fourth degree. Whoever violates Section 369.08 as a third or subsequent offense of that section shall be guilty of a misdemeanor of the first degree.

(g) Whoever violates Section 365.03 shall be guilty of a misdemeanor of the third degree. Each three (3) month period during which the violation continues is a separate offense. Whoever violates Section 356.03 as a fifth or subsequent offense shall be guilty of a misdemeanor of the first degree. For fifth and subsequent offenses, each three (3) month period during which the violation continues is a separate offense.

(h) A court of competent jurisdiction may require whoever is convicted of or pleads guilty to a violation of this Housing Code to pay to the City's Department of

Building and Housing, fees for inspections of violation that have not been remedied, which fee is described in Sections 367.08 and 3105.26, and the expenses or costs incurred under the provisions for demolition or boarding contained in the Housing Code.

Section 240.01

Definitions

The definitions contained in RC 3742.01, and OAC 3701-30-01 and 3701-32-01 shall be used in this chapter and supplemented as follows:

(a) "Commissioner" means the Commissioner of the Division of the Environment of the City unless otherwise expressly specified.

(b) "Department" means the City Department of Public Health unless otherwise expressly specified.

(c) "Landlord" has the meaning described in division (b) of Section 375.01 of the Codified Ordinances.

(d) "Lead abatement" means a measure or a set of measures, designed for the single purpose of permanently eliminating lead hazards. "Lead abatement" includes all of the following:

- (1) Removal of lead-based paint and lead-contaminated dust;
- (2) Permanent enclosure or encapsulation of lead-based paint;
- (3) Replacement of surfaces or fixtures painted with lead-based paint;
- (4) Removal or permanent covering of lead-contaminated soil;
- (5) Preparation, cleanup, and disposal activities associated with lead abatement.

"Lead abatement" does not include:

- (1) Preventive treatments performed under RC 3742.41;
- (2) Implementation of interim controls
- (3) Activities performed by a property owner on a residential unit to which both of the following apply:
 - A. It is a freestanding single-family home used as the property owner's private residence;
 - B. No child under six (6) years of age who has had lead poisoning resides in the unit.

(4) Renovation, remodeling, landscaping or other activities, when the activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. This definition shall not be interpreted to exempt any person from any requirement under State or federal law regarding lead abatement, including lead hazard control orders or requirements for full abatement of lead-based paint in certain federally-funded projects.

(e) "Lead hazard" means the presence of lead-based paint or lead-contaminated dust or lead-contaminated soil or lead-contaminated water pipes at levels described as hazardous in Ohio Administrative Rule 3701-32-19 as that rule exists at the time of passage of this section or as it may be amended.

(f) "Rental agreement" has the meaning described in division (c) of Section 375.01 of the Codified Ordinances.

(g) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero (0) bedroom dwelling.

(h) "Tenant" has the meaning described in division (e) of section 375.01 of the Codified Ordinances.

(i) "Zero (0) bedroom dwelling" means any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

(j) "Daily rental rate" is the periodic rent amount specified in the rental agreement divided the number of days in the period for which rent is due. In tenancies where rent is due on a monthly basis, the daily rental rate is the monthly rent divided by thirty (30).

Section 240.02

Lead Hazards Are A Nuisance

(a) This Council finds that lead hazards constitute a nuisance.

(b) The Commissioner may determine that a nuisance is required to be immediately controlled under this section if, in the Commissioner's opinion, failure to immediately control the hazard may cause a serious risk to the health of the occupants of the property. In such a case, the Commissioner may require the owner or manager of the property to immediately control the nuisance or the Commissioner may, by his or her authorized representative, immediately control such nuisance.

Section 240.03

Prohibitions

(a) No person shall do any of the following:

(1) Violate any provision of RC 3742.02 or the rules adopted under it;

(2) Apply or cause to be applied any lead-based paint on or inside a residential unit, child day-care facility, or school, unless the Ohio public health council has determined by rule under RC 3742.50 that no suitable substitute exists;

(3) Interfere with an investigation conducted by the Commissioner, any person delegated by the Commissioner, any lead inspector or risk assessor.

(b) No person shall knowingly authorize or employ an individual to perform lead abatement on a residential unit, child day-care facility, or school unless the individual who will perform the lead abatement holds a valid license issued under RC 3742.05.

(c) No person shall do any of the following when a residential unit, child day-care facility, or school is involved:

(1) Perform a lead inspection without a valid lead inspector license issued under RC 3742.05;

(2) Perform a lead risk assessment or provide professional advice regarding lead abatement without a valid lead risk assessor license issued under RC 3742.05;

(3) Act as a lead abatement contractor without a valid lead abatement contractor's license issued under RC 3742.05;

(4) Act as a lead abatement project designer without a valid lead abatement project designer license issued under RC 3742.05;

(5) Perform lead abatement without a valid lead abatement worker license issued under RC 3742.05;

(6) Perform a clearance examination without a valid clearance technician license issued under RC 3742.05, unless the person holds a valid lead inspector license or valid lead risk assessor license issued under that section;

(7) Perform lead training for the licensing purposes of this chapter without a valid approval from the director of health under RC 3742.08;

(8) Perform interim controls without complying with 24 C.F.R. Part 35.

(d) No person shall manufacture children's toys or children's furniture that has paint containing lead equal to or in excess of one (1.0) mg/cm² (milligram per square

centimeter), one-half of one percent (0.5%) by weight, or five thousand (5,000) parts per million (ppm) by weight.

(e) No person shall sell or hold for sale a children's toy or children's furniture that has paint containing lead equal to or in excess of one (1.0) mg/cm² (milligram per square centimeter), one-half of one percent (0.5%) by weight, or five thousand (5,000) parts per million (ppm) by weight.

(f) No person shall perform lead abatement, or any exterior power-assisted and/or manual lead-based paint removal, on any target housing located in the City without first obtaining a permit from the Commissioner of Licenses and Assessments as described in Section 240.05 of the Codified Ordinances.

(g) No person shall sell or lease target housing in the City of Cleveland unless the owner, lessor, and agent of the target housing meets all applicable requirements of Section 240.06 of the Codified Ordinances regarding disclosures of lead hazards.

(h) No person renovating target housing in the City of Cleveland shall fail to comply with the Pre- Renovation Lead Information Rule in Section 240.07 of the Codified Ordinances.

(i) No owner or manager of a retail or wholesale outlet of paint and paint-removal products shall violate division (b) of Section 240.07 by failing to provide an EPA-approved Lead Hazard Information Pamphlet or Fact Sheet.

(j) All power-assisted methods of lead-based paint removal are hereby prohibited, unless the method is such that all dust and debris is immediately captured within a closed container which prevents lead- contaminated debris from escaping into the environment. No lead-based paint removal shall be conducted whereby the method of collection of dust and debris is captured solely by ground tarpaulins, draped scaffolding and other types of barriers after the dust and debris has been released into the environment. Open flame burning is prohibited under any circumstances. Persons performing interim controls shall comply division (c)(8) of Section 240.03 of these Codified Ordinances.

(k) No power-assisted lead-based paint removal shall be performed, unless:

(1) The area from which the lead-based paint is to be removed is first shielded with tarpaulins or other screening to prevent vapor, water, dust and debris from escaping into the environment; and

(2) Plastic disposable cloths are first spread at least ten (10) feet from the foundation below the surface upon which the lead-based paint removal is being performed and on sides adjacent to said surface. The drop cloths shall be attached, when possible, to the foundation of the residential structure in order to collect any debris and residue; and

(3) All vents, windows and other areas through which air may enter the residential structure upon which the lead-based paint is being removed, shall be closed to prevent infiltration of any dust or debris.

(l) No manual exterior lead-based paint removal shall be performed unless plastic disposable cloths are first spread at least ten (10) feet from the foundation below the surface upon which the lead-based paint removal is being performed and on sides adjacent to said surface. The drop cloths shall be attached, when possible, to the foundation of the residential structure in order to collect any debris and residue.

(m) No interior lead-based paint removal shall be performed without first spreading plastic disposable drop cloths on the floor in an area sufficiently large to collect all debris and residue.

(n) Following the completion of each day's lead- based paint removal:

(1) All drop cloths shall be carefully wet wiped, rolled up and disposed of; and

(2) All paint or paint dust shall be removed from the premises, adjacent property and public rights of way, and whenever possible, through the use of wet methods.

Section 240.04

Secondary Prevention

(a) When the Commissioner becomes aware that an individual under six (6) years of age has lead poisoning, the Commissioner is authorized to conduct an investigation or lead risk assessment in accordance with the requirements of OAC Chapter 3701.

(b) In conducting the investigation, the Commissioner may request permission to enter, or for a lead inspector or risk assessor to enter, the residential unit, child day-care facility, or school that the Commissioner suspects to be the sources of the lead poisoning. If the Commissioner or delegated lead inspector or risk assessor is unable to obtain permission to enter the property, either may apply for an order of court to enter the property.

(c) As part of the investigation, the Commissioner may review the records and reports, if any, maintained by a lead inspector, lead abatement contractor, lead risk assessor, lead abatement project designer, lead abatement worker, or clearance technician.

(d) When the Commissioner determines, as a result of an investigation and/or risk assessment conducted under division (a) of this section, that a residential unit, child day-care facility, or school are contributing to a child's lead poisoning, the Commissioner is authorized to issue an order, in accordance with OAC Chapter 3701, to have each lead hazard controlled.

(e) No person shall fail to comply with an order issued by the Commissioner under division (d).

Section 240.05 Lead Abatement and Lead-Paint Removal Permit Required; Application; Fees; Permit Suspension or Revocation

(a) The Commissioner of Environment is authorized to establish a program for the loaning of equipment, at no cost, for the removal of lead hazards in the City of Cleveland and is authorized to enter into contracts, as approved by the Director of Law, for the purpose of loaning the equipment.

(b) No person shall perform any lead hazard abatement or any exterior power-assisted and/or manual lead-based paint removal on target housing located in the City without first obtaining a permit from the Commissioner of Assessments and Licenses. For purposes of section, 'target housing' includes all secondary or appurtenant structures that were constructed prior to 1978 and are on the parcel upon which the target housing is located. A permit is not required under this section if all of the following apply: (1) the person uses the target housing as their personal residence; (2) the person personally performs, or performs with the assistance of only members of his or her family or household, only manual exterior lead- based paint removal on the structure on the property; (3) no child under six (6) years of age who has lead poisoning resides in the structure.

(c) The commissioners and inspectors of the Division of Environment and Department of Building and Housing are authorized to issue an order to immediately stop working to any person performing work that requires a permit that has not obtained a permit or to any person performing work in violation of any prohibition in RC Chapter 3742 or this chapter of the Codified Ordinances.

(d) A person shall immediately stop performing lead hazard abatement or reduction activities when ordered to do so under subsection (c). A person shall not resume such activities except in accordance with all terms and conditions of a valid permit for paint removal and until their practices conform to all applicable standards and methods prescribed in RC Chapter 3742.

(e) *Permit Application; Fees.*

(1) Every person who is required to obtain a permit under this section shall make application to the Commissioner of Assessments and Licenses upon forms to be prescribed by the Commissioner of Environment. The forms shall include:

A. The name and address of each applicant, and if the applicant is a partnership, the principle address of the partnership, and the name and address of each partner, and if the applicant is a corporation, the principle address of the corporation, the state of incorporation, the corporate

federal identification number and the name and address of the corporation's statutory agent;

B. The address of the residential unit where the lead-hazard will be removed;

C. A description of the method by which the lead-hazard will be removed;

D. Any other information required by the Commissioner.

E. An applicant may file a single permit application for more than one (1) residential unit if the application contains all of the information required by division (e)(1) of this section with respect to each separate residential unit.

F. The permit fee is fifteen dollars (\$15.00) for each separate residential structure from which lead-contaminated paint is to be removed.

G. Upon receipt of a completed application and permit fee, the Commissioner of Assessments and Licenses shall issue the permit and a copy of the application and permit shall be provided to the Commissioner of the Environment.

H. A permit, issued under this section, shall expire six (6) months from the date that it is issued. An applicant may apply for an extension that may be granted.

(2) The Commissioner of Licenses and Assessments shall notify the Director of Building and Housing of any permits issued under this section.

(f) Permit Suspension or Revocation.

(1) The Commissioner of Licenses and Assessments shall suspend or revoke any permit issued under this chapter, upon the recommendation and order of the Commissioner, for violation or failure to comply with the provisions of this chapter, or the Ohio Revised Code.

(2) Any person may appeal the denial, suspension or revocation of a permit for the removal of lead-based paint to the Board of Zoning Appeals, established under Charter Section 76-6, provided that written appeal is filed with the Board Secretary within ten (10) days of the date the decision being appealed was made.

(3) If a person appeals in accordance with subsection (2), the Board shall conduct a hearing and render a decision in accordance with City ordinances and

regulations described in this chapter and those governing its conduct and procedure.

(g) For work requiring a permit under this chapter, each permittee shall provide seven (7) days advance written notice to all occupants of residential structures on which lead-based paint is to be removed, and to all occupants of residential structures which are within thirty (30) feet of the residential structure on which the lead-based paint is to be removed. The notice shall be as prescribed by the Commissioner and shall include, at a minimum, the address at which the lead-based paint will be removed, the date of commencement of the lead-based paint removal, the anticipated length of the removal, and the method by which the lead-based paint will be removed. The notice shall include a copy of the Lead-Based Paint Hazards Health and Safety Fact Sheet as prescribed by the Commissioner.

(h) All contractors, on the signing of a contract for the removal of lead-based paint from a residential structure shall provide, with the contract, a Lead-Based Paint Hazards Health and Safety Fact Sheet.

(i) Owners of occupied residential structures and/or contractors planning any construction, repair, rehabilitation, renovation, or maintenance work that involves the disturbance of lead-based paint in any occupied residential structure shall, seven (7) days prior to the work's initiation, distribute the Lead-Based Paint Hazards Health and Safety Fact Sheet to all affected occupants.

(j) The notice required under this section does not relieve any person from compliance with any other notice requirements under State or federal law, including when notice is required in a hazard control order.

Section 240.06

Disclosures In Sale or Lease of Target Housing
Regarding Lead Hazards

(a) *Disclosure in Purchase or Lease of Target Housing.*

(1) To ensure the application of their requirements to the sale or lease of target housing in the City limits, the rules and regulations that are promulgated by the Secretary and the Administrator of the Environmental Protection Agency under the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d, and their successor regulations, are adopted and incorporated into this code as these rules and regulations exist at the time of passage of this chapter or as they may be amended. Before a purchaser or tenant is obligated under any contract to purchase or rental agreement to lease the target housing, the seller or lessor shall perform the activities and provide the disclosures described in this section.

A. Provide the purchaser or tenant with an EPA-approved lead hazard information pamphlet;

B. Disclose to the purchaser in writing in the sales contract, or tenant, both orally and in writing in the rental agreement, all of the following: (i) the presence of any known lead-based paint, or any known lead hazards, in the housing; (ii) any additional information available concerning the location of the lead-based paint and/or lead hazards, and the condition of the painted services; (iii) whether the property owner has a current Lead Maintenance Certificate or Lead- Based Paint Free Certificate and the length of time of its coverage; (iv) provide to the purchaser or tenant any records or reports (including notices or letters of violation) available pertaining to lead-based paint hazards or lead hazards in the target housing, including regarding common areas; and (v) records or reports regarding other residential dwellings in multi-family target housing, provided that the information is part of an evaluation or reduction of lead-based paint and/or lead hazards in the target housing;

C. Permit the purchaser a ten (10) day period (unless the parties mutually agree in writing upon a different period of time or to waive this requirement) to conduct a lead risk assessment or lead inspection for the presence of lead paint or lead hazards;

D. Include in the contract for sale or rental agreement for lease the Lead Warning Statement prescribed in 40 C.F.R. 745.113;

E. Include in the contract for sale or rental agreement for lease acknowledgments that the pamphlet, disclosures, ten (10) day period (if required) and warning required were provided.

(2) Discovery of Lead Hazard Prior to the Expiration of a Lease. If the owner of a residential unit learns of the presence of lead paint prior to the expiration of a lease, the owner shall notify each tenant of the presence of lead paint within ten (10) days of discovering its presence. In addition, the owner shall provide each tenant with a Lead Warning Statement and the lead hazard information pamphlet, as prescribed by 42 U.S.C. 4852d.

(3) Compliance Assurance. The rules and regulations requiring the agent, on behalf of the seller or lessor, to assure compliance with the requirements issued under the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d, and their successor regulations, are adopted and incorporated into this code as these rules and regulations exist at the time of passage of this chapter or as they may be amended, and apply to an agent whenever a seller or lessor has entered into a contract with the agent for the purpose of selling or leasing a unit of target housing in the City limit. An agent is defined as any party who enters into a contract with a seller or lessor, for the purpose of selling or leasing pre-1978 housing.

(b) *Penalties for Violations.*

(1) Criminal Penalty. Any person who knowingly fails to comply with a provision of this section shall be subject to the penalties provided in Section 240.99 of the Codified Ordinances.

(2) The Director of Public Health or Commissioner is authorized to take lawful action as may be necessary to enforce this section or to enjoin any violation of it.

(3) Civil Liability. As provided in the Federal Residential Hazard Reduction Act at 42 U.S.C. 4852d(b), any person who violates any provision of this section will be jointly and severally liable to the purchaser or lessee in an amount equal to three (3) times the amount of damages incurred by the individual or damages of not less than \$100.

(4) In any action brought for damages under this section, the appropriate court may award court costs to the party commencing the action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(5) A non-profit environmental health or housing rights organization is authorized to bring an action under division (b)(3) of this section on behalf of an aggrieved individual or individual(s) for violations of this section. Such organization may recover its costs under the remedies provided in divisions (b)(3) and (b)(4) of this section if the organization demonstrates that it has exerted organizational resources, including staff time, to investigate the alleged non-compliance with this section.

(c) *Validity of contracts for purchase and sale and liens.* Nothing in this section may affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor may anything in this section create a defect in title.

(d) *Disclosures Of Rental Registration Status at the Point of Lease.* As of March 1, 2020, when signing a lease for any premises in the City of Cleveland, the owner or manager shall disclose the premises' rental registration status under 365.02(c)(9) as lead safe, lead free, not lead safe, or exempt from lead safe registration using the disclosures approved by the Lead Advisory Board. If the premises is not on the rental registration, the owner or manager shall disclose the premises status as not on the rental registration using the disclosures approved by the Lead Advisory Board.

(e) *Disclosures Of Rental Registration Status at the Point of Advertisement.* As of March 1, 2020, when making any written advertisement, including on digital platforms, offering to rent any residential rental property, the property's lead status on the rental registry must be disclosed in the advertisement. If the property is not on the rental registry or the rental registry certification does not reflect a lead status under 365.02(c)(9), the advertisement must state that the premises has not been determined to be lead safe.

Section 240.07

Pre-Renovation Lead Information Rule; Paint Outlet
Information Rule

(a) To ensure the application of the requirement of the federal Pre-Renovation Lead Information Rule to the renovation of pre-1978 housing in the City limits, the rules and regulations promulgated under that rule and found at 40 C.F.R. Part 745, Lead; Requirements for Hazard Education Before Renovation of Target Housing, are adopted and incorporated into this Health Code as they exist at the time of passage of this chapter or as they may be amended.

(b) All retail and wholesale outlets of paint and paint removal products shall distribute an EPA- approved lead hazard information pamphlet or Lead- Based Paint Hazards Health and Safety Fact Sheet approved by the City of Cleveland Department of Public Health to each purchaser of said products.

Section 240.08

Proof of Lead Safety

(a) *Presumption of Lead-based Paint and Proof of Lead-free Property.* For the purposes of this chapter, all paint on the interior or exterior of any rental unit as defined in 365.01(a) on which the original construction was completed prior to January 1, 1978, shall be presumed to be lead-based. This presumption may be rebutted if a licensed lead inspector certified under the Federal certification program or under a federally accredited State or tribal certification program issues a report certifying that the property is free of lead-based paint.

(b) *Initial Determination of Lead Safety.* To determine for the first time that a rental unit as defined in Section 365.01(a) of the Codified Ordinances, a day care center as defined in 227.01 of the Codified Ordinances, or any other premises is lead safe, the owner or manager shall do the following:

(1) Have a lead risk assessor certified pursuant to OAC 3701-32-07 conduct a lead risk assessment of the premises as described in OAC 3701-32-07(G), except that

A. The lead risk assessor does not need to complete a questionnaire as required by OAC 3701-32-07(G)(1);

B. The lead risk assessor may presume that deteriorated paint is a lead hazard, in place of the testing requirements of OAC 3701-32-07(G)(4);

C. The lead risk assessor may presume that bare soil is a lead hazard, in place of the testing requirements of OAC 3701-32-07(G)(8);

D. If the lead risk assessor identifies a lead hazard in the section of the report mandated by OAC 3701-32-07(G)(10)(n), the report must prominently state on the first page that premises is "not lead safe." If the lead risk assessor does not identify any lead hazards in the section of the

report mandated by OAC 3701-32-07(G)(10)(n), the report must prominently state on the first page that the premises is "lead safe."

(2) If the lead risk assessor's report identifies lead hazards, have a properly certified individual perform the abatement or non-abatement options for each identified lead hazard in the lead risk assessor's report and obtain a clearance examination as outlined in OAC 3701-32-08 through OAC 3701-32-13. If the clearance examination finds that all lead hazards identified in the lead risk assessment have been sufficiently eliminated or controlled, the first page of the clearance examination shall prominently state that the property is "lead safe." If the clearance examination does not find that all lead hazards identified in the lead risk assessment have been sufficiently eliminated or controlled, the first page of the clearance examination shall prominently state that the property is "not lead safe."

(c) *Subsequent Determination of Lead Safety.* To determine that a property is lead safe after an initial determination of lead safety as outlined in subsection (b), the owner or manager shall have a lead clearance technician, lead inspector or lead risk assessor perform a lead clearance examination pursuant to OAC 3701-32-12. Based on the results of the clearance examination:

(1) If the premises passes the clearance exam, the clearance examination report must prominently state on the first page that the premises is "lead safe."

(2) If the premises fails the lead clearance exam, the owner or manager must obtain proof of lead safety by following the steps of division (b) of this section as though the owner or manager were obtaining initial proof of lead safety

(d) *Proof of Lead Safety.* a passing clearance examination and/or lead risk assessment stating prominently that the property is "lead safe" is proof of lead safety for the purposes of this Chapter and Chapter 365 of the Codified Ordinances.

(e) *Legal Presumption.* Proof of lead safety entitles the owner, manager, or agent of the premises to a legal presumption that the premises does not contain a lead-based paint hazard and is not the source of lead poisoning for any individuals who had contact with the premises and who were lead poisoned during the two years after the date of issuance of proof of lead safety. The legal presumption established under this section applies to any enforcement action under this Code and is rebuttable in a court of law only on a showing of clear and convincing evidence to the contrary.

(f) *Municipal Liability.* The City is enacting and enforcing the provisions of this chapter only to promote the public health, safety and welfare and for obligations imposed upon it by the State of Ohio under delegation by the Ohio Department of Health. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims

that the breach proximately caused injury. In addition, nothing in this chapter may be interpreted to limit the City's statutory immunity afforded by RC chapter 2744.

Section 240.09

Enforcement

(a) Whenever the Commissioner of Environment or Director of Building and Housing or any authorized City officer or employee ascertains either upon information or by observation or lead inspection, that any provision of this chapter is being or has been violated, that official may, in writing, notify the owner, manager, or person in charge that the violation shall be corrected.

(b) In addition to the penalty for a violation of this chapter, whenever the Commissioner of Environment or Director of Building and Housing or any authorized City officer or employee ascertains either upon information or by observation or lead inspection, that the provisions of this chapter are being or have been violated, and the violation creates a nuisance, which may endanger the health and/or safety of persons, that official may, in writing, notify the owner or person in charge, that the nuisance shall be immediately abated. They may also apply any and all remedies found in Chapter 203 to prevent, terminate or abate the nuisance.

(c) In addition to any penalty for a violation of this chapter, the Commissioner of Environment or Director of Building and Housing or any authorized officer or employee they delegate may control such nuisance. The costs and expense of controlling a nuisance by the Commissioner, or their authorized representative, under this chapter, may be recovered as provided in RC 715.261, including certifying the costs and expenses to the County Auditor, to be assessed against the property and made a lien upon it and collected as other taxes.

(d) The authority described in division (c) to control such nuisance, includes the authority to order the owner or manager to relocate the occupants of a residential unit, day-care facility, or school, until the property passes a clearance examination, if the Commissioner of Environment determines that the health of the occupants may be at risk during the lead hazard control work. The Commissioner of Environment may relocate the occupants until the residential unit, child day-care facility, or school passes a clearance examination. The costs and expense of the relocation may be recovered by certifying them to the County Auditor, to be assessed against the property and made a lien upon it and collected as other taxes.

(e) In the event of an actual or threatened violation of this chapter or an emergency situation, the Director of Law, in addition to other remedies provided by law, may institute a proper suit in equity or at law to prevent or terminate the violation or remedy the situation.

(f) In the event of any actual or threatened violations of this chapter, the Director of Law, in addition to other remedies provided by law, may institute proper suit in equity or by law to prevent or terminate such violation or to remedy such situation.

(g) In addition to all other penalties and remedies provided by law, any person damaged by a nuisance caused by a violation of this chapter may institute a proper action in equity or by law to prevent or terminate such violation or remedy such situation.

(h) The City of Cleveland is enacting and enforcing the provisions of this chapter only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 240.10

Lead Advisory Board and Evaluation

(a) *Creation of the Lead Advisory Board.* The City shall create a Lead Advisory Board to monitor the implementation of the changes to Chapter 240, Chapter 365, and Chapter 227.

(b) *Composition of the Board.* The Board shall consist of nine (9) members appointed by the Mayor. Two (2) of the initial members of the Board will be appointed by the Mayor from nominations made by Cleveland Lead Advocates for Safe Housing (hereinafter "CLASH"). One (1) of the initial members of the Board will be appointed by the Mayor from nominations made by the Northeast Ohio Black Health Coalition (hereinafter "NEOBHC"). Three (3) of the initial members of the Board will be appointed by the Mayor from nominations made by the Lead Safe Cleveland Coalition (hereinafter "LSCC"). The other three (3) members will be appointed by the Mayor without a nominating process. The two (2) members chosen from the CLASH nominations, two (2) of the members chosen from the LSCC nominations (1) of the members chosen without a nominating process will serve for an initial two year term. The other four members will serve an initial four year term. Thereafter, all appointed members of the Lead Advisory Board shall serve four year terms.

Any position on the Board which was initially appointed from nominations made by CLASH shall thereafter be appointed from nominations made by CLASH. Any position on the Board which was initially appointed from nominations made by NEOBHC shall thereafter be appointed from nominations made by NEOBHC. Any position on the Board which was initially appointed from nominations made by LSCC shall thereafter be appointed from nominations made by LSCC. Any position on the board which was initially appointed by the Mayor without a nominating process shall thereafter be appointed by the Mayor without a nominating process. If at any time, including during the initial appointments, the nominating entities fail to offer nominees, the Mayor shall appoint the board positions without a nominating process.

At least two (2) members of the board shall rent residential real property in the City of Cleveland and reside in that rental as their primary residence. At least two (2) members of the board shall own real property in the City of Cleveland subject to registration under Chapter 365.02. At least two (2) members must work at organizations or public entities which advocate for public health, civil rights, racial justice or youth achievement. At least one (1) member of the board shall be a children's health

professional with an Registered Nurse, Medical Doctor, Masters of Public Health or Doctorate of Public Health certification. At least one (1) member of the board shall be the legal parent or guardian of a child who has had an elevated blood lead level test above 5 micrograms per deciliter. At least one (1) member of the board shall be a contractor certified in lead safe renovation, repair and painting.

(c) *Reports Issued to the Lead Advisory Board.* Department of Building and Housing shall issue reports on a quarterly basis to the Lead Advisory Board regarding the implementation of changes to Chapter 240 and Chapter 365. The reports shall include (i) the number of properties that have applied for rental registration under categories 365.02(a)(3)(A)-(F), (ii) fines assessed and fees collected in connection with Chapter 240 and Chapter 365, (iii) the number and type of lead inspections conducted under Section 365.04, (iv) the number of lead hazard citations given by the Department of Building and Housing, (v) compliance actions taken against owners of residential rental units that fail to comply with provisions of Chapter 240 and Chapter 365, and (vi) any known instances of Cleveland residents displaced due to lead hazard remediation. The Commissioner of Assessments and Licenses shall issue reports on a quarterly basis to the Lead Advisory Board regarding (i) the number of day care centers that have obtained a permit with proof of lead safety under Chapter 227 (ii) the number of permit applications made and permits issued pursuant Chapter 240.05. The Director of Public Health shall issue reports on a quarterly basis to the Lead Advisory Board regarding (i) outreach efforts to day care center permit holders regarding lead safety requirements (ii) the number of lead risk assessments, lead hazard control orders, lead investigations and lead clearance examinations conducted in response to elevated blood lead level tests. The Commissioner shall issue reports on a quarterly basis to the Lead Advisory Board regarding its enforcement efforts under Chapter 240, including any instances in which the Commissioner has had to relocate occupants of a premises pursuant to Section 240.09(d).

(d) *Other Duties of the Lead Advisory Board.*

(1) The Lead Advisory Board shall also research and report to the Mayor regarding other potential lead hazards in the city, including lead dust contamination in vacant lots or public parks and lead hazards in water pipes.

(2) By January 1, 2020, the Lead Advisory Board shall approve disclosures of rental registration status to be given to renters pursuant to Chapter 240.06(d). These disclosures shall be made available in languages other than English pursuant to the City of Cleveland's Language Access Plan.

(3) On a quarterly basis, the Lead Advisory Board shall report to the Mayor and report to the public the current average market rate for a privately-hired lead risk assessment and a lead clearance examination in the City of Cleveland.

(4) Beginning in 2020, the Lead Advisory Board shall review the rental registry authorized in Section 365.06 every year for accessibility and provide

recommendations to the Department of Building and Housing. The Department of Building and Housing shall issue a report to the Board six months after receiving the Board's recommendations. The Department's report will document their review and implementation of the Board's recommendations.

(e) *Meetings of the Lead Advisory Board.* The Lead Advisory Board shall hold public meetings on a quarterly basis to review the reports it has received and issued under subsection (c) and (d). These reports shall be made available to the public at least seven (7) days prior to the quarterly meeting. Board meetings shall include a public comment period. Notice of the meetings shall comply with R.C. 121.22 and all other state and local laws regarding public meetings.

(f) *Evaluation of the Lead Safe Cleveland Program.* The City shall hire an independent, academic based organization to evaluate implementation of changes to Chapter 240 and Chapter 365 at the end of one year, three years and five years.

(g) *Public Education.* The City shall partner with local organizations to educate the public around the hazards of lead poisoning and raise awareness of the opportunity for tenants and homeowners to verify that their property is lead safe. The City shall document the education efforts of all relevant departments and produce a report at the end of one year, three years, and five years.

Section 240.11

Lead Assessment & Remediation Fund

There is hereby established a special revenue fund entitled Lead Assessment and Remediation Fund to support property owners seeking financial assistance for the lead assessment and remediation process. In this fund shall be placed monies from gifts, grants and other funding from any government, non-profit or private entity appropriated for the purpose of lead assessment and remediation under the provisions of this chapter. The funds shall be granted to homeowners to cover the full cost of lead assessment and remediation, or to landlords and owners of day care centers to cover the cost of lead assessment and remediation. The Director of Community Development shall administer the fund under rules and regulations written by that Director.

Section 240.12

Effect on Landlords and Tenants

(a) Registering any rental unit as defined in Section 365.01(a) as not lead safe under 365.02(a)(3)(C) after March 1, 2021 is a violation of this Chapter. Any such violation materially affects health and safety for the purposes of RC 5321.04(A)(1).

(b) If a tenant must vacate a premises temporarily in order for lead hazards on the property to be addressed, the landlord must provide a written statement from a certified lead repair contractor of the estimated duration of the repairs. The tenant may elect to terminate the rental agreement rather than temporarily vacate the premises. If the tenant does not terminate the rental agreement, the tenant may elect between the following two options:

(1) If the tenant pays a monetary amount of rent under the rental agreement, the tenant may elect for an abatement of their rent, beginning at the time they vacate the premises, equal to two times the daily rental rate for the first fourteen (14) days during which the tenant must vacate the premises and one times the daily rental rate for each day thereafter;

(2) The tenant may elect for the landlord to be responsible for providing comparable housing for the duration of the repairs but the tenant continues to pay rent during the time the tenant vacates the premises.

(c) A landlord shall provide to a premises' tenants copies of any lead risk assessments or clearance examination performed on the premises within 72 hours of first receiving copies of such lead risk assessment or clearance examination. Copies of the lead risk assessment or clearance examination shall be tendered by certified mail, return receipt requested, or by handing a written copy to the tenant in person, or by leaving it at the premises that is the subject of the lead risk assessment or clearance test.

Section 240.99

Penalties

(a) Whoever violates division (f) of Section 240.03 is guilty of a minor misdemeanor.

(b) Whoever violates any provision of Chapter 240 for which no other penalty is provided or rule or regulation or order under this chapter is guilty of a misdemeanor of the first degree. Except for a violation of division (f) of Section 240.03, each day during which noncompliance or a violation continues shall constitute a separate offense.

(c) As provided by RC 2901.23 and 2929.31, organizations convicted of an offense are guilty of a misdemeanor of the first degree.

Section 227.03

Permit Application

(a) Any person, firm, association or corporation desiring a permit to open, maintain and conduct a day care center shall make written application to the Commissioner of Assessments and Licenses, and that application shall state the name and residence of the applicant, and if the applicant is a corporation or association, the name and residence of all the officers; the present or proposed location of the day care center; the purpose for which it is to be opened, maintained or conducted; the accommodations provided for the children to be admitted to the day care center; the name and address of the superintendent or of the person or persons to be in charge; for applications made after November 1, 2021, proof that the proposed location of the day care center has been determined to be lead safe under Section 240.08 of the Codified Ordinances; and other information as the Commissioner may request.

(b) Permits for the calendar year following the year in which the application is being made shall be accepted no earlier than November 1.